In The

Supreme Court of Mayflower

No. 01-08

THE STATE OF MAYFLOWER,

Petitioner,

v.

TREXEODEV,

Respondent.

Appeal from the Mayflower District Court
for the District of Clark County

Before TURNTABLE, *Chief Justice*, TOTORO, STICKZA, CLARKE, CABOT, XIQAQ, KHALED, MANDATORY, and NOTABLE, *Associate Justices*.

CLARKE, *Associate Justice*, joined by TOTORO, NOTABLE, XIQAQ, *Associate Justices*.

Here, the District Court issued a sua sponte dismissal of the petitioner's criminal case against respondent, claiming a violation of respondent's Sixth Amendment right to speedy trial. We are asked to decide whether the district court misapplied the standard set in *Barker* v. *Wingo*, 407 U.S. 514 (1972), in its determination there was a speedy trial violation. We find that the district court misapplied the law, and as such, we reverse.

I

On September 24th, 2024, state prosecutors filed a criminal case against respondent on one felony count of assault with a deadly weapon. Pre-trial proceedings ended on October 11th, and prospective trial scheduling began. By the 20th, after three separate

prosecutors had been appointed to the matter with no apparent progress on scheduling trial, the district court dismissed the matter with prejudice. *State* v. *TrexeoDev*, CR-0015-24 (Mayfl. Dist. Ct. 2024).

II

The United States and Mayflower Constitution's guarantee to all criminal defendants the right to a speedy trial. U.S. Const. amend. VI; Mayfl. Const. Art. I, § 5. The United States Supreme Court has formed a four-pronged test, known commonly as the *Barker* test, in determining whether a defendant's right to a speedy trial has been violated.

The test makes four separate inquiries: (1) the length of the delay; (2) the reason for the delay; (3) the defendant's assertion of his right; and (4) prejudice to the defendant. See *Barker*, *supra* at 530. We adopt this same test with respect to the speedy trial right under the Mayflower Constitution.

III

The first factor, the length of the delay, serves as "a triggering mechanism." *Ibid*. In its balancing test, the Supreme Court dictates that until "there is some delay which is presumptively prejudicial, there is no necessity for inquiry into the other factors that go into the balance." *Ibid*. The length of the delay remains dependent on the particular circumstances of the matter. The length of delay is also dependent on the nature of the matter, for indeed, the period reasonable for prosecution of an "ordinary street crime" is considerably less than for a complex criminal charge. *Id*., at 531.

Procedurally, the period of delay is measured from the date formal charges are filed. *United States* v. *Marion*, 407 U.S. 307, 320 (1971). However, on the merits, length of delay "is the net period of time that may be chargeable to the State or to the court system as true delay." *Ratchford* v. *State*, 785 A.2d 826, 829 (2001) (internal quotation marks omitted); see also *United States* v. *Howard*, 218 F.3d 556, 564 (6th Cir. 2001) ("in calculating the length of the delay, only those periods of delay attributable to the government or the court are relevant to [defendant's] constitutional claim"); see also *State* v. *Crane*, 784 P.2d 901, 903 (1989) (citing *State* v. *Wirtala*, 752 P.2d

177, 180 (1988)) ("length of delay refers only to the time period chargeable to the State").

When finding "presumptive prejudice," the time between accusation and trial "must [cross] the threshold dividing ordinary from presumptively prejudicial delay." *Doggett* v. *United States*, 505 U.S. 647, 651 (1992). Presumptive prejudice simply marks the point at which courts deem the delay unreasonable enough to trigger a Barker inquiry. *Id.*, at n. 1. Most specific to this matter, in situations of prosecutorial negligence, presumptive prejudice must have been caused by a prolonged period of negligence in bringing the case to trial. *Id.*, at 654.

The respondent faced one felony count of assault with a deadly weapon, which court discovery records indicate was supported by both video and eyewitness evidence. The district court's final order, in part, states that as a direct result of the delay in this matter, the defendant's ability to mount an effective defense was impaired. We calculate the actual delay from the time the district court ordered the parties to schedule trial to when it dismissed the matter. In this time, only nine days had elapsed.

While all nine days of delay were attributable to the three separate prosecutors, we are not convinced that considering the totality of the circumstances—the felonious nature of the matter, the type of evidence in the matter, and the length of delay attributable to the government—that there was a delay that presumptively prejudiced the respondent. Therefore, this court may not engage in any further *Barker* inquiries.

IV

Accordingly, we reverse the decision of the district court and remand the case for further proceedings consistent with this opinion.

It is so ordered.

JUSTICE KHALED and JUSTICE MANDATORY took no part in the consideration or decision of this case.

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TURNTABLE, *Chief Justice,* dissenting, joined by STICKZA, CABOT, *Associate Justices.*

Although I join JUSTICE CABOT'S dissenting opinion in full, I write separately to emphasize my weariness in certain aspects of the majority's opinion, namely its incessant credence to *Barker* v. *Wingo*, 407 U.S. 514 (1972), absent any consideration given to its total applicability to our ROBLOX platform.

I do not disagree that the *Barker* test is the correct one to employ in cases where we determine whether there has been a speedy trial violation. It is the correct test to employ. My disagreement stems from the majority's narrow construction of its four-pronged test which reflects a callous indifference to the unique nature of our platform. Instead, I would push for a more holistic review of cases in order to determine their palpable cohesion with our platform and our roleplay mechanics. Furthermore, I seek to expand on dangers that may come into fruition if this Court were to give total or even partial deference to opinions rendered by the Supreme Court of the United

States *absent* any consideration as to whether it is reconcilable with our platform.

I

At the outset, we are presented with a case where the state has brought a singular charge against the Defendant: one count of felony assault with a deadly weapon. The state formally charged the defendant on the 24th of September 2024. The district court opened pretrial proceedings shortly thereafter where it closed on the 11th of October 2024. The district court then attempted to schedule trial, where the first state attorney refused to state their availability. When the state appointed another attorney, they too, failed to respond to the district court's attempts to schedule the trial. Finally, a third prosecutor appeared, but by this time, the state had gone through three attorneys and yet to no avail, no trial has been scheduled. At this point in time, the Defendant has still not had his opportunity to contest the claims that were made against him. The district court then dismissed the case without prejudice citing a speedy trial violation.

The majority's holding is lackluster. They engage in a hasty analysis of *Barker* and make a finding that there was no delay which "presumptively prejudiced the respondent." *Ante*, at 3. Its stringent reading of the four prongs in *Barker* was done without due regard for our roleplay system being based on ROBLOX. The Court invokes three separate points of contention in support of its reading of *Barker*: "(1) the felonious nature of the matter; (2) the type of evidence in the matter; and (3) the length of delay attributable to the government." *Ibid*.

A

1

First, the majority points towards the "felonious nature" of the matter. At face value, this conclusion is true. 1 M.S.C. § 2302 prescribes that assault with a deadly weapon shall be classified as a felony crime. However, it should be noted that state prosecutorial entities seldom ever charge for anything less than a felony charge. While there may occasionally be misdemeanor charges tacked on, their

superior state budget unlatches certain limitations that we might otherwise expect from other entities, such as county or municipal entities that wish to enforce state laws within their own jurisdiction. I allude to the analysis conducted by JUSTICE CABOT in which he notes that the Department of Justice functions in a manner that is fundamentally incommensurable with real-life justice entities such as the federal Department of Justice. See *post*, at 3. This is for a variety of reasons. To tangentially suggest that we should automatically defer to the state's timeline despite a single felonious charge, one that is comparably much lesser on its face value when compared to other various tragedies that occur in our state on a day-to-day basis, is inherently erroneous. Our state Department of Justice is not presented with a workload that is slightly close to that of our real life counterparts, whether it be a state or federal agency. But that is what the majority fails to recognize.

The issue is dyadic—it intrinsically requires us to comprehend the differences between our platform and real life while simultaneously mandating us to read the situation in a harmonious manner; one that allows us to truly effectuate our ability to "say what the law is." *Marbury* v. *Madison*, 5 U.S. 137, 177 (1803). By stringently reading *Barker*, we put ourselves in a situation where we deny ourselves the ability to "engage in a difficult and sensitive balancing process." *Post*, at 5 (citing *Barker*, 407 U.S., at 533). Doing this is the equivalent of donning a judicial straitjacket, one that unequivocally strips us of our voice: leaving us as nothing more than a court of suggestion, and not one of law. To enable the state as a freewheeling entity, one that is allowed to fragrantly ignore trial scheduling on the basis of prosecuting for a felony charge is an affront to the rule of law.

2

As for the evidentiary issue, the majority does not exactly expand upon its rationale for this particular conclusion. Instead, they presumptively determine that there is "both video and eyewitness evidence" which support the single felony charge. *Ante*, at 3. Video evidence by virtue of its online nature, makes it insusceptible to various types of spoliation, absent for deletion or corruption. But that did not appear to be the case here. However, in analyzing *Barker* under

a ROBLOX context, I would instead suggest that we disregard any evidentiary spoliation for pieces of evidence that were collected through electronic processes. However, I would exclude eyewitness accounts from this, for lapses in time "can impair the accused's ability to mount a defense" and "memories of his witnesses may fade," *inter alia*. *Dickey* v. *Florida*, 398 U.S. 30, 42 (1970). Electronically accessible evidence, in the forms of videos and photographs, dominates our platform's evidentiary realm. Simply take a look at any discovery submission: "Turn it over, and turn it over, for all is therein." *Caperton* v. *AT Massey Coal Co., Inc.*, 556 U.S. 868, 902-903 (Scalia, J., dissenting) (citing 8 The Babylonian Talmud: Seder Nezikin, Tractate Aboth, Ch. V, Mishnah 22, pp. 75-77 (I. Epstein ed.1935) (footnote omitted)).

To grant broad deference to the state on the basis of the choice of their evidence, one that is virtually unavoidable due to the nature of the game, would be to grant them a carte blanche in how long it takes them to prosecute a particular matter. And I fear that this is what this Court has done today.

3

As for the length of a particular delay and its attributability to the government, I would instead suggest we do away with this approach and push for a more holistic approach, one that reads all of the factors in tandem with one another. For each factor is fundamentally valuable in terms of its relevance in determining a speedy trial violation. In this case, we have a state justice entity that threw nine valuable days away, despite various characteristics that are unique to them: something that real life counterparts just cannot compare to. To apply certain readings of *Barker*, ones which were culminated because of actual legal realms in real life, instead of narrowly tailoring its applicability in order to remain relevant to our ROBLOX platform, is reckless and it sends the wrong message to our lower courts. By throwing nine days, the state essentially shirked its duty to prosecute matters in a timely manner. Some parallel jurisdictions have found a common law basis in choosing to dismiss criminal matters, with or without prejudice, for failing to prosecute a matter. See, *e.g.*, *State* v. *Gavin*, 1 Rid. 74 (2022). They recognized this in English

common law judgments, notably ones of *non prosequitur*. *Id.*, at 77; see also 3 Blackstone, Commentaries 295-296 (1768). Additionally, the Ridgeway Supreme Court noted that "[t]he delay of proceedings itself presents an actual prejudice" as the Defendant stands "to suffer [reputational] injury." *Id.*, at 78. For these reasons, I would find error in the majority's declaration that the Defendant was not "presumptively prejudice[d]," for there was *actual* prejudice. *Ante*, at 3.

B

In order for a particular judgment to comport with our platform, we should generally inquire as to whether it internally recommends a non-fixed reading of issues: one that enables the judiciary to read a particular matter in a holistic manner. For the case of *Barker*, there are internal mechanisms that are present which allow us to put everything together harmoniously. The court must recognize certain differences and it must make a judgment in light of these differences. However, broad deference to *Barker* would be erroneous due to the level of analysis that the *Barker* court engaged in. They reviewed the workload of several prosecutors around the nation and recognized that a strict reading of its test would be improper, specifically when contrasted with the ROBLOX platform, which handles significantly fewer cases than real-life state and federal justice entities and operates under particular procedural, statutory, and jurisdictional limitations that are distinct from those of traditional courts.

While I agree that *Barker* is the correct test to employ, I fundamentally disagree with how the majority construed it in such a strict manner. It glosses over the prejudice caused by the delay and instead rushes to justify its decision with a meager analysis. Instead, we should have construed *Barker* in a light that recognizes key qualities that are prevalent in our game, and matters that could not reasonably have been precipitated by the *Barker* Court. Namely on factors such as the number of practicing attorneys, how many are retained by the Department of Justice, and how many were assigned on this case specifically. Three prosecutors were assigned to this case and all of them shirked their duty to timely prosecute this matter. The investigation process is also fundamentally different, as the platform is cluttered with videographic evidence that is able to be saved at the click

of a button. For these reasons, we should read *Barker* in a harsher light, one that rightfully shifts the burden onto the state given the legal atmosphere. Instead, I fear that we have done the opposite here.

II

Sparse and inconsistent decisions regularly stem from a court's decision to faultily defer to Supreme Court opinions that may tinge game mechanics or the nature of roleplay in a negative manner. Even if this Court subscribes to the *Barker* test, the majority has read it in a galvanizing manner. By choosing to elevate certain standards and constructing them in a narrow and unscrupulous way, the majority has denied the Defendant of the opportunity to be free from an onerous prosecution. Additionally, the majority even recounts that "period reasonable for prosecution of an 'ordinary street crime' is considerably less than for a complex criminal charge." *Ante*, at 2 (citing *Barker*, 407 U.S., at 531). Yet their opinion seems to directly contradict this despite the state charging the Defendant with a single felony charge, one that is far from being complex. Erroneous and sometimes even cogent readings of Supreme Court decisions establish bad precedent; this case is a hallmark example of that due the incommensurability of our platform and real life. We are devoid of a clear-cut standard in order to consistently apply precedent in a blanket manner. This, in turn, leaves us to consider matters on a case-by-case basis.

Prior to adopting a particular test devised by the Supreme Court, it would be arbitrary to do so without an ancillary analysis of whether the holding would be reconcilable given the current game mechanics and the nature of our platform, ROBLOX. At bottom, it is a game, and we simply cannot impose strict limitations on the player base without a rational reason in doing so. A corollary to this is demonstrated in several Supreme Court opinions that push for holistic forms of review—rendering judgment based on an analysis of the totality of the circumstances, or even one that pushes for a text-and-history based approach. See, *e.g.*, *Graham* v. *Connor*, 490 U.S. 386, 396 (1989) (adopting a "totality of the circumstances" test in determining reasonableness for an office's use of force); *Maryland* v. *Pringle*, 540 U.S. 366 (2003) (adopting a review of the "totality of the

circumstances" in determining the presence of probable cause); *District of Columbia* v. *Wesby*, 583 U.S. 48 (2018) (applying rationale in *Maryland*). It is not novel to suggest that we ought to be more holistic in our review not withstanding our obligation to effectuate a judiciary that promotes the rule of law while simultaneously not requiring players to dredge through a swamp of legal inconsistency.

While recognizing our roots as a state within the Union of Columbia, we must also come into terms with practical considerations such as our sovereignty being a necessity for basic gameplay functions. Our own state Constitution recognizes this too. At every point, there remains a check that we possess over unnecessary federal bureaucracy whose existence does nothing more than to serve the whims of eccentric members of our community.

The Framers, in joining the Union of Columbia, recognized that our admission would fundamentally not be comparable to that of every other state in the Union. We "in part, accept and recognize our Federal Constitution." Mayf. Const., Art. I. The only laws of the Union of Columbia which the state shall enforce are the very ones that our Senate has codified. Mayf. Const. Art. I., Sec. 11. Our juricentric Constitution is one that elects the judiciary as the sole protectors of the Constitution. It is a duty that we valiantly take on, and thus, the burden falls on us to determine which Supreme Court opinions are favorable in terms of its interference with crucial game mechanics and roleplay features.

For these reasons, I would advocate for less reliance on strict tests and instead adopt mechanics of review that truly allow us to consider all of the circumstances in the crafting of a particular judicial remedy. Indeed, the aim of our equitable power is "to adapt judicial power to the needs of the situation." *United States* v. *Ramsey*, 331 F. 2d 824, 828 (CA5 1964). It is emphatically our duty to read the law as it is, but doing so blindly would result in an untenable position, akin to situation the majority's opinion has put us in today. The *Barker* test internally recognizes the importance of not needing to pinpoint particular standards in order to determine a constitutional violation: "none of the four factors identified above as either a necessary or sufficient condition to the finding of a deprivation of the

right of speedy trial." *Barker*, 407 U.S., at 533. Yet, the majority purports that it is necessary, when the court "must still engage in a difficult and sensitive balancing process." *Ibid.*

Because I would instead affirm the lower court's judgment in holding that there was a speedy trial violation, I therefore must respectfully dissent from the Court's judgment.

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CABOT, *Associate Justice,* dissenting, joined by THE CHIEF JUSTICE.

Today I write to dissent from the court's judgement and reversal of the District Court's dismissal of the matter based on speedy trial grounds. I find my colleague's application for *Barker* in its current form to be erroneous and too rigid for a ROBLOX community like ours. I also find the majority's decision to not fully examine and apply the *Barker* requirements to be erroneous. I take no issue with the presentation of the facts as mentioned above and thank JUSTICE CLARKE for his thorough analysis of such.

I. The length of delay requirement in Barker is too narrowly construed for this court to apply without modification

The majority's failure to fully engage with the *Barker* factors and find whether they are applicable to this matter, even prospectively, have and will lead to unanswered questions for litigators in the lower court. Namely, the court's analysis begins and ends with the first prong: the length of delay. See *Barker*, supra at 530. I understand

Barker itself finds that analysis after the first prong is unnecessary if it is unsatisfied, but again I find this insufficient for a community like ours where a thorough analysis and application of the case law would likely provide more clarity to attorneys and criminal defendants alike.

I would do away with the arbitrary nonsense that is relied upon to subjectively decide what type of delays are attributable to the court and to the state. See *Ratchford* v. *State,* 785 A.2d 826, 829 (2001). Through this length of delay analysis, the court has decided on a nine-day delay failing to be presumptively prejudicial, and in doing so they engage with the fourth prong of the Barker test—indirectly. This type of analysis will inevitably require this court to start calculating delays and attributing fault for such delays in a manner that I do not find sufficiently objective and fair enough to apply in the ROBLOX context.

I believe that it is necessary to either set a rigid timeline and find the origin for such deadline in the common law or establish a specific test to decide when a defendant has had their speedy trial protections violated (arguably before *Barker* analysis should be invoked). The test in *Barker* is simply insufficient by itself to protect the interests of defendant, especially when the statutes of this state are silent on when a defendant's Sixth Amendment right is violated. *Cf.* 18 U.S.C. Ch. 208. This court does a disservice by not engaging in further analysis of contextual and proportionality weighting that they engage in towards the end of the court's opinion. I will address this below further in my dissent.

II. Jurisprudence from other ROBLOX communities supports the lower court

I believe that this court also missed the opportunity of taking judicial notice of the speedy trial jurisprudence that other ROBLOX communities have adopted. The jurisprudence of other well-respected common-law jurisdictions on ROBLOX should be considered and, if necessary, utilized, if it would give legitimacy to a judicial decision that would otherwise be lacking in supporting judicial reasoning. Lower court judges should do so with the confidence that this court will review and apply the reasoning of other common law

jurisdictions if it would develop and fit into our common law seamlessly.

In doing so, I take an example of a leading speedy trial case in (N) United States of America: *Cabot* v. *United States,* 10 U.S. 98 (2020). Justice Kagan wrote for the court in applying the (Federal) Speedy Trial Act (STA). After applying the statutory U.S. Code conversion period set by the Congress, decided that a trial must commence within 9 days of a criminal information being filed. This was a rigid interpretation of the STA but in doing so it recognized that rigidity gave certainty to criminal defendants. I cite *Cabot* because it also takes a holistic approach – deciding that delays up to a month on ROBLOX are incompatible with the general due process protections that criminal defendants are afforded under the Sixth Amendment.

The respondent faced one felony count of assault with a deadly weapon, which court discovery records indicate was supported by both video and eyewitness evidence. The district court's final order, in part, states that as a direct result of the delay in this matter, the defendant's ability to mount an effective defense was impaired. We calculate the actual delay from the time the district court ordered the parties to schedule trial to when it dismissed the matter. In this time, only nine days had elapsed.

This holistic approach can arguably be traced to the fact that "due process is flexible and calls for such procedural protections as the particular situation demands." *Morrissey v. Brewer,* 408 U. S. 471, 481 (1972). In this holistic analysis I believe the only reasonable conclusion that a court can come to when: (1) the Department of Justice has a monopoly on practicing attorneys within the state, (2) they bring charges on a (medium-severity) singular felony count of 'assault with a deadly weapon', (3) the full and unfettered resources of the state are launched against a criminal defendant, and (4) substantive progress has not been made within a reasonable time period (in this case almost a month), then the state should bear that burden – not a criminal defendant.

II. A holistic and proportionate due process test should be applied and created before applying the Barker analysis for speedy trial claims

I believe that this is a missed opportunity for the court to build upon the holding that "due process, unlike some legal rules, is not a technical conception with a fixed content unrelated to time, place and circumstances." *Cafeteria & Restaurant Workers v. McElroy,* 367 U. S. 886, 895 (1961) (internal quotation marks omitted). Surely, if the court is not in favor of establishing a rigid timeline as to when a speedy trial right is violated, and due process protections are abridged then a weighting test should take place *before* any sort of *Barker* analysis is engaged.

My main issue is that certainty is not given to criminal defendants despite this ruling by the majority. We remain in the wilderness because we have applied a *Barker* analysis without a supporting statute – in doing so I find the *Barker* test to be quite hollow. It is quite peculiar because the majority judgement, in my view, seems to engage a proportionate and holistic approach by looking at the nature of the charges and reconciling this to the delay (i.e., *the* AWDW charge). However, the court finds that the delays incurred are justified because of the felonious nature of the charge. I find this particularly unconvincing because of the 4 reasons outlined in the second section of my dissent. A single charge of felonious AWDW should not take a month to almost get to trial. If the state has a monopoly on attorneys and almost unlimited resources, they should be begging for a trial – not the other way round. When the state must change the prosecutor 3 times it suggests to me that they are unprepared for trial. I remain unconvinced as to why a criminal defendant and not the state should pay the price for that.

Instead, I would suggest that before the courts look to applying the *Barker* factors they should instead engage in a holistic proportionality-driven analysis. Namely, does the power and the resources disposable to the state justify the delay that has been incurred. This also would involve looking quite briefly as to whether the delays were borne out of bad faith conduct by the defense and the complexity of the charges being brought. If the defense engages in the process in

good faith, make no attempts to unduly delay the proceedings to benefit from speedy trial rights, and the nature of the charges do not require abnormal manpower by the state to pursue, then the defendant's speedy trial rights and due process rights should be vindicated.

In applying this analysis to the facts here, the defendant would likely prevail. This is not a thirty-count racketeering indictment against joint defendants, this is a single count AWDW to which the state's almost unlimited resources seem to be unable to keep up with. There is no suggestion that the defense engaged in any bad faith conduct. I would also seek to set aside the *Barker* requirement that the defense invoke their speedy trial rights with vigor to invoke them in good faith. Simple assertion of the right should be good enough to provoke a response by the almighty power of the state.

In turn, I do not see the application of this proportionality test to be particularly incompatible with the principles engaged in *Barker*. I simply find the *Barker* test to be too rigid to apply on its own in the context of ROBLOX without a supporting statute or time conversion. See *Barker,* supra at 533 ("[T]hese factors have no talismanic qualities; courts must still engage in a difficult and sensitive balancing process"). I would have directed the lower courts to engage in the proportionality-based analysis until a statute is designed by the legislature and is signed into law, in which case this analysis—with reference to the length of the delay incurred—should be revisited in accordance with the new prospective statutory framework. As a result, I would have developed upon and affirmed the judgement of the District Court favoring dismissal with prejudice.

Therefore, I respectfully dissent.